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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0189; Docket No. 2015-0055; Sequence 52]

Submission for OMB Review; Identification of Predecessors

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a new OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Identification of Predecessors. A notice was published in the Federal Register at 79 FR 71975, on December 4, 2014. Two comments were received.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]**

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching for OMB control number 9000-0189, Identification of Predecessors. Select the link "Submit a Comment" that corresponds with "9000-0189; Identification of Predecessors." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "9000-0189; Identification of Predecessors" on your attached document.

- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW. Washington, DC 20405. ATTN: Ms. Flowers/IC 9000-0189, Identification of Predecessors.

Instructions: Please submit comments only and cite Information Collection 9000-0189, in all correspondence related to this case. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis,
Procurement Analyst, Federal Acquisition Policy Division, at
202-219-0202 or email cecelia.davis@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

This final rule implements section 852 of the National Defense Authorization Act for Fiscal Year 2013 to include in the Federal Awardee Performance and Integrity Information System (FAPIIS), to the extent practicable, identification of any immediate owner or subsidiary, and all predecessors of an offeror that held a Federal contract or grant within the last three years. The objective is to provide a more comprehensive understanding of the performance and integrity of the corporation before awarding a Federal contract.

B. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of significant changes in response to public comments.

There were no changes made in the final rule in response to the public comments received.

B. Analysis of public comments

Comment: One respondent commented that it would be helpful if the relevant FAR provisions and FAR clause 52.204-WW clarified whether the three year "lookback" period starts on the effective date of when the predecessor merged or was acquired by the successor or the date the contracts of the predecessor were novated from the predecessor to the successor.

Response: The "lookback" period starts on the date the offeror signs the representation. If, within the three years prior to signing the representation, there was a merger or acquisition, it shall be reported. The date of novation is not relevant for purposes of this rule.

Comment: One respondent supported the statute because it requires that information be provided to the contracting officers to aid in making responsibility determinations, and supported the position that the "further the distance between entities, the less relevant the information is likely to be for establishing responsibility of the offeror."

Response: Noted.

Comment: One respondent commented that the proposed rule's requirement to report data on all predecessors of the offeror that received a Federal contract or grant within the last three years would apply an undue burden on prospective contractors and not achieve the Government's stated

objective of providing a more comprehensive understanding of a potential contractor's performance and integrity. The respondent proposed that publicly traded companies subject to SEC requirements be exempt from this requirement because it instills a burden without benefit to the Government.

Response: The statute does not allow for this exemption.

Comment: One respondent commented that large multi-national organizations many times reorganize business units in order to effectively respond to changing needs of the marketplace. These reorganizations can include alternate legal structures. The assets of one legal entity may pass through three or four more before landing at the new entity. The respondent proposed that where the ultimate owner remains the same before and after a transaction, the contractor be exempted from providing information on predecessor entities. According to the respondent, this is consistent with the Government's exclusion of a "new offices/divisions of the same company" from the definition of "successor."

Response: This recommendation does not meet the requirements of the statute.

Comment: One respondent commented that contracting officers and their counsel perform a rigorous review and analysis to deal with the novation process and feels that there should be no requirement to identify prior owners within the FAPIIS

because the required responsibility determination would have been conducted through novation.

Response: The statute requires collection of information on predecessor, regardless of any novation action by the Government.

Comment: The respondent commented that the reporting of the ultimate owners became effective on November 1, 2014, and believe that agencies should allow contractors and contracting officers time to implement and evaluate the results of this new requirement before adding more requirements that may not aid contracting officers in responsibility and integrity evaluations.

Response: The statute does not allow the Government to delay the implementation of this Act.

Comments: The respondent feels that commercially available off-the-shelf (COTS) items should be excluded from this requirement.

Response: The Administrator of the Office of Federal Procurement Policy has determined that this rule applies to COTS items.

C. Annual Reporting Burden

Respondents: 413,800.

Responses per Respondent: 1.

Total Annual Responses: 413,800.

Hours Per Response: .1.

Total Burden Hours: 41,380.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW. Washington, DC 20405, telephone 202-501-4755.

Please cite OMB Control Number 9000-0189, Identification of Predecessors, in all correspondence.

Edward loeb,
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Federal Acquisition Policy Division,
Office of Government-wide Acquisition Policy,
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Office of Government-wide Policy.

[BILLING CODE 6820-EP]

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